

AN ORDINANCE PROVIDING  
DEFINITIONS OF THE TERMS  
"CONFIDENTIAL EMPLOYEE,"  
"PROFESSIONAL EMPLOYEE,"  
AND "SUPERVISORY EMPLOYEE"  
USED IN THE CITY'S  
COLLECTIVE BARGAINING  
ORDINANCE AND RECOGNIZE  
CERTAIN RIGHTS FOR  
PROFESSIONAL EMPLOYEES.

WHEREAS, Section 20-16(a) of the City Code provides that the City's collective bargaining ordinance for non-safety employees applies to "all nonconfidential, non-supervisory, and nonexempt employees of the city and its utilities..."; and

WHEREAS, no definitions have been provided for the terms "Confidential Employee," "Exempt Employee," or "Supervisory Employee";

WHEREAS, the City desires to afford its professional employees the same rights available to professional employees under the NLRA; and

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Sections 20-16(a) and 20-16(b) of the City Code are hereby amended to read as follows:

(a) Application: This section shall apply to all non-confidential and non-supervisory employees of the City and its utilities (other than those represented by the PBA, the FOP, and IAFF Local 124 who are subject to a different section). This section shall apply to the City of Fort Wayne and all of its boards, commissions, authorities, divisions and departments. The following definitions shall apply to this section:

(a)(1) "Confidential employee," for the purposes of this section, shall mean an employee:



1           A.    who works in the city's personnel  
2                   office;

3           B.    who has access to confidential or  
4                   discretionary information that may be  
5                   used by the city in negotiating a  
6                   collective bargaining agreement under  
7                   this section;

8           C.    who works in a close and continuing  
9                   working relationship with:

10                   (1)   an individual holding elective  
11                         office; or

12                   (2)   individuals who represent the  
13                         city in negotiations under this  
14                         section;

15           D.    whose:

16                   (1)   functional responsibilities; or

17                   (2)   knowledge;

18                         concerning employee relations makes  
19                         the employee's membership in an  
20                         employee organization incompatible  
21                         with the employee's duties; or

22           E.    who is the personal secretary of:

23                   (1)   a division or department head;  
24                         or

25                   (2)   an individual holding elected  
26                         office.

27           (a)(2) "Professional Employee," for the purposes of  
28                   this section, shall mean any employee engaged in  
29                   work (i) predominantly intellectual and varied in  
30                   character as opposed to routine mental, manual,  
31                   mechanical, or physical work; (ii) involving the  
32                   consistent exercise of discretion and judgment in  
                  its performance; (iii) of such a character that  
                  the output produced or the result accomplished  
                  cannot be standardized in relation to a given period  
                  of time; (iv) requiring knowledge of an advanced  
                  type in a field of science or learning customarily  
                  acquired by a prolonged course of specialized  
                  intellectual instructions and study in an  
                  institution of higher learning or a hospital, as  
                  distinguished from a general academic education or  
                  from an apprenticeship or from training in the  
                  performance of routine mental, manual, or physical  
                  processes.

             (a)(3) "Safety Employee" shall mean a member  
                 of either the City's Police or Fire Department  
                 who is also a member of a police or fire  
                 pension fund.

             (a)(4) "Supervisory Employee," for the purposes  
                 of this section, shall mean an individual  
                 having authority in the interest of the city,  
                 or its utilities, to hire, transfer, suspend,  
                 lay off, recall, promote, discharge, assign,  
                 reward, or discipline other employees, or  
                 responsibility to direct other employees, or to  
                 adjust employee grievances, or effectively to



recommend such action, if the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(b) Rights of Employees: Non-confidential and non-supervisory City employees shall have the right to bargain collectively with and to be represented by such labor organization or organizations as so selected by a majority of City employees in an appropriate bargaining unit. Professional employees may be included in a bargaining unit containing non-professional employees only if a majority of the professional employees vote to be so included. "Appropriate bargaining unit" shall be defined, for purposes herein, as a group of employees experiencing a commonality of work and job functions. The Common Council, upon recommendation of the Mayor, shall classify those positions that are "confidential," "professional," or "supervisory." In the event that an employee in such a position and/or a bargaining agent for the bargaining unit involved objects to such classification as recommended by the Mayor, the Common Council shall refer the dispute for mediation as provided in Sec. 20-16(h)(3). If the dispute is not resolved within thirty (30) days after it is referred to the mediation panel, the Common Council shall take action thereon which action shall be final and shall not be subject to grievance or arbitration.

SECTION 2. Any job position currently covered by a collective bargaining agreement that would be considered confidential or supervisory under these definitions shall cease to be part of any bargaining unit upon Common Council approval of such classification, and no union fees shall thereafter be deducted from said employee's paycheck. Professional employees shall cease to be part of any current bargaining unit upon a majority vote of such employees to cease being part of a unit that includes nonprofessional employees.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and any and all necessary approval by the Mayor and shall apply to all agreements entered into after its effective date.

Clitus R Edmonds  
Council Member

APPROVED AS TO FORM  
AND LEGALITY

J. Timothy McCaulay  
J. Timothy McCaulay

Read the first time in full and on motion by Edmonds, seconded by Edmonds, and duly adopted, read the second time by title and referred to the Committee on Regulation (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Common Council Conference Room 128, City County Building, Fort Wayne, Indiana, on \_\_\_\_\_, the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M., E.S.T.

DATED: 3-10-92

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Read the third time in full and on motion by Edmonds, seconded by \_\_\_\_\_, and duly adopted, placed on its passage. PASSED ~~LOST~~ by the following vote:

92-3-13

	AYES	NAYS	ABSTAINED	ABSENT
TOTAL VOTES	<u>6</u>	<u>3</u>		
BRADBURY		<u>✓</u>		
EDMONDS		<u>✓</u>		
GIAQUINTA	<u>✓</u>			
HENRY	<u>✓</u>			
LONG	<u>✓</u>			
LUNSEY	<u>✓</u>			
RAVINE	<u>✓</u>			
SCHMIDT	<u>✓</u>			
TALARICO		<u>✓</u>		

DATED: 4-14-92 Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

(ANNEXATION) (APPROPRIATION) (GENERAL)  
(SPECIAL) (ZONING) ORDINANCE RESOLUTION, NO. 9-16-92  
on the 14th day of April, 1992

ATTEST:

(SEAL)

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Thomas P. Henry  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 15th day of April, 1992, at the hour of 1:30 o'clock P. M., E.S.T.

Sandra E. Kennedy  
SANDRA E. KENNEDY, CITY CLERK

Approved and signed by me this 24th day of April, 1992, at the hour of 12:30 o'clock P. M., E.S.T.

11666  
PAUL HELMKE, MAYOR

24  
3  
BILL NO. G-92-03-13 (as amended) *Committee of the Whole*

REPORT OF THE COMMITTEE ON REGULATIONS

CLETUS R. EDMONDS, CHAIRMAN  
JANET G. BRADBURY, VICE CHAIRWOMAN  
RAVINE, TALARICO, SCHMIDT

WE, YOUR COMMITTEE ON \_\_\_\_\_ REGULATIONS \_\_\_\_\_ TO WHOM

WAS REFERRED AN (ORDINANCE) (~~RESOLUTION~~) \_\_\_\_\_ PROVIDING

DEFINITIONS OF THE TERMS "CONFIDENTIAL EMPLOYEE" "EXEMPT  
EMPLOYEE," AND "SUPERVISORY EMPLOYEE" USED IN THE CITY'S  
COLLECTIVE BARGAINING ORDINANCE

HAVE HAD SAID (ORDINANCE) (~~RESOLUTION~~) UNDER CONSIDERATION  
AND BEG LEAVE TO REPORT BACK TO THE COMMON COUNCIL THAT SAID  
(ORDINANCE) (~~RESOLUTION~~) \_\_\_\_\_

<u>DO PASS</u>	<u>DO NOT PASS</u>	<u>ABSTAIN</u>	<u>NO REC</u>
<i>C. R. Edmonds</i>			
<i>J. G. Bradbury</i>			
<i>R. Ravine</i>	<i>Sam J. Talarico</i>		
<i>S. Schmidt</i>			

DATED: 4-14-92

Sandra E. Kennedy  
City Clerk



GENERAL ORDINANCE NO. G-\_\_\_\_\_

AN ORDINANCE PROVIDING  
DEFINITIONS OF THE TERMS  
"CONFIDENTIAL EMPLOYEE,"  
~~"EXEMPT EMPLOYEE,"~~  
"PROFESSIONAL EMPLOYEE,"  
AND "SUPERVISORY EMPLOYEE"  
USED IN THE CITY'S  
COLLECTIVE BARGAINING  
ORDINANCE AND RECOGNIZE  
CERTAIN RIGHTS FOR  
PROFESSIONAL EMPLOYEES.

WHEREAS, Section 20-16(a) of the City Code provides that the City's collective bargaining ordinance for non-safety employees applies to "all nonconfidential, non-supervisory, and nonexempt employees of the city and its utilities..."; and

WHEREAS, no definitions have been provided for the terms "Confidential Employee," "Exempt Employee," or "Supervisory Employee";

WHEREAS, the City desires to afford its professional employees the same rights available to professional employees under the NLRA; and

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

~~SECTION 1. Sections 20-16(a)(1), (a)(2), (a)(3) and (a)(4) are hereby added to the City Code to read as follows:~~

SECTION 1. Sections 20-16(a) and 20-16(b) of the City Code are hereby amended to read as follows:

(a) Application: This section shall apply to all non-confidential and non-supervisory employees of the City and its utilities (other than those represented by the PBA, the FOP, and IAFF Local 124 who are subject to a different section). This section shall apply to the City of Fort Wayne and all of its boards, commissions, authorities, divisions and departments. The following definitions shall apply to this section:

(a)(1) "Confidential employee," for the



purposes of this section, shall mean an employee:

A. who works in the city's personnel office;

B. who has access to confidential or discretionary information that may be used by the city in negotiating a collective bargaining agreement under this section;

C. who works in a close and continuing working relationship with:

(1) an individual holding elective office; or

(2) individuals who represent the city in negotiations under this section;

D. whose:

(1) functional responsibilities; or

(2) knowledge;

concerning employee relations makes the employee's membership in an employee organization incompatible with the employee's duties; or

E. who is the personal secretary of:

(1) a division or department head; or

(2) an individual holding elected office.

(a)(2) "Professional Employee," for the purposes of this section, shall mean any employee engaged in work (i) predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical, or physical work; (ii) involving the consistent exercise of discretion and judgment in its performance; (iii) of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; (iv) requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instructions and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual, or physical processes.

~~(a)(2) "Exempt Employee," for the purposes of this section, shall mean an employee for whom the city is not obligated to pay overtime compensation under the Fair Labor Standards Act (FLSA).~~

(a)(3) "Safety Employee" shall mean a member of either the City's Police or Fire Department who is also a member of a police or fire pension fund.



~~(a)(3)~~ (a)(4) "Supervisory Employee," for the purposes of this section, shall mean an individual having authority in the interest of the city, or its utilities, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct other employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

~~(a)(4) The Common Council, upon recommendation of the Mayor, shall classify those positions that are "confidential," "exempt," or "supervisory." Such classification is final and shall not be subject to grievance or arbitration.~~

(b) Rights of Employees: Non-confidential and non-supervisory City employees shall have the right to bargain collectively with and to be represented by such labor organization or organizations as so selected by a majority of City employees in an appropriate bargaining unit. Professional employees may be included in a bargaining unit containing non-professional employees only if a majority of the professional employees vote to be so included. "Appropriate bargaining unit" shall be defined, for purposes herein, as a group of employees experiencing a commonality of work and job functions. The Common Council, upon recommendation of the Mayor, shall classify those positions that are "confidential," "professional," or "supervisory." In the event that an employee in such a position and/or a bargaining agent for the bargaining unit involved objects to such classification as recommended by the Mayor, the Common Council shall refer the dispute for mediation as provided in Sec. 20-16(h)(3). If the dispute is not resolved within thirty (30) days after it is referred to the mediation panel, the Common Council shall take action thereon which action shall be final and shall not be subject to grievance or arbitration.

SECTION 2. Any job position currently covered by a collective bargaining agreement that would be considered confidential, ~~exempt~~ or supervisory under these definitions shall cease to be part of any bargaining unit upon ~~the effective date of this ordinance,~~ Common Council approval of such classification, and no union fees shall thereafter be deducted from said employee's paycheck. Professional employees shall cease to be part of any current bargaining unit upon a majority vote of such employees to cease being part of a unit that includes nonprofessional employees.

SECTION 3. That this Ordinance shall be in full



PAGE 4

force and effect from and after its passage and any and  
all necessary approval by the Mayor and shall apply to all  
agreements entered into after its effective date.

\_\_\_\_\_  
Council Member

APPROVED AS TO FORM  
AND LEGALITY

  
\_\_\_\_\_  
J. Timothy McCaulay  
City Attorney

GENERAL ORDINANCE NO. G-\_\_\_\_\_

AN ORDINANCE PROVIDING  
DEFINITIONS OF THE TERMS  
"CONFIDENTIAL EMPLOYEE,"  
"EXEMPT EMPLOYEE," AND  
"SUPERVISORY EMPLOYEE" USED  
IN THE CITY'S COLLECTIVE  
BARGAINING ORDINANCE

WHEREAS, Section 20-16(a) of the City Code provides that the City's collective bargaining ordinance for non-safety employees applies to "all nonconfidential, nonsupervisory, and nonexempt employees of the city and its utilities..."; and

WHEREAS, no definitions have been provided for the terms "Confidential Employee," "Exempt Employee," or "Supervisory Employee";

NOW THEREFORE BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. Sections 20-16(a)(1), (a)(2), (a)(3) and (a)(4) are hereby added to the City Code to read as follows:

(a)(1) "Confidential employee," for the purposes of this section, shall mean an employee:

- A. who works in the city's personnel office;
- B. who has access to confidential or discretionary information that may be used by the city in negotiating a collective bargaining agreement under this section;
- C. who works in a close and continuing working relationship with:
  - (1) an individual holding elective office; or
  - (2) individuals who represent the city in negotiations under this section;
- D. whose:
  - (1) functional responsibilities; or
  - (2) knowledge;

concerning employee relations makes the employee's membership in an employee organization incompatible with the employee's duties; or



E. who is the personal secretary of:

(1) a division or department head;  
or

(2) an individual holding elected  
office.

(a)(2) "Exempt Employee," for the purposes of  
this section, shall mean an employee for whom  
the city is not obligated to pay overtime  
compensation under the Fair Labor Standards Act  
(FLSA).

(a)(3) "Supervisory Employee," for the purposes  
of this section, shall mean an individual  
having authority in the interest of the city,  
or its utilities, to hire, transfer, suspend,  
lay off, recall, promote, discharge, assign,  
reward, or discipline other employees, or  
responsibility to direct other employees, or to  
adjust employee grievances, or effectively to  
recommend such action, if the exercise of the  
authority is not of a merely routine or  
clerical nature, but requires the use of  
independent judgment.

(a)(4) The Common Council, upon recommendation  
of the Mayor, shall classify those positions  
that are "confidential," "exempt," or  
"supervisory." Such classification is final  
and shall not be subject to grievance or  
arbitration.

SECTION 2. Any job position currently covered  
by a collective bargaining agreement that would be  
considered confidential, exempt or supervisory under these  
definitions shall cease to be part of any bargaining unit  
upon the effective date of this ordinance, and no union  
fees shall thereafter be deducted from said employee's  
paycheck.

SECTION 3. That this Ordinance shall be in full  
force and effect from and after its passage and any and  
all necessary approval by the Mayor and shall apply to all  
agreements entered into after its effective date.

C. R. Edmund  
Council Member

APPROVED AS TO FORM  
AND LEGALITY

J. Timothy McCaulay  
J. Timothy McCaulay  
City Attorney

DIGEST SHEET

TITLE OF ORDINANCE: General Ordinance

DEPARTMENT REQUESTING ORDINANCE: Mayor's Office

SYNOPSIS OF ORDINANCE:

*recommended*  
9-92-03-13

Provides definitions for terms used in collective bargaining ordinances.

EFFECT OF PASSAGE: New definitions will apply.

EFFECT OF NON-PASSAGE: Terms will remain undefined.

MONEY INVOLVED (DIRECT COSTS, EXPENDITURES, SAVINGS): \_\_\_\_\_

ASSIGNED TO COMMITTEE (PRESIDENT) \_\_\_\_\_